

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop
Additional Methods to Implement the California
Renewables Portfolio Standard Program

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Rulemaking 06-02-012
(Filed February 16, 2006)

**SACRAMENTO MUNICIPAL UTILITY DISTRICT'S COMMENTS ON THE MARCH
26, 2009 DRAFT OF THE PROPOSED DECISION AUTHORIZING THE USE OF
RENEWABLE ENERGY CREDITS FOR COMPLIANCE WITH THE CALIFORNIA
RENEWABLES PORTFOLIO STANDARD**

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April 15, 2009

**SACRAMENTO MUNICIPAL UTILITY DISTRICT'S COMMENTS ON THE
MARCH 26, 2009 DRAFT OF THE PROPOSED DECISION AUTHORIZING THE
USE OF RENEWABLE ENERGY CREDITS FOR COMPLIANCE WITH THE
CALIFORNIA RENEWABLES PORTFOLIO STANDARD**

The Sacramento Municipal Utility District (SMUD) hereby files its comments on the California Public Utilities Commission's (CPUC) March 26, 2009 draft of the Proposed Decision Authorizing Use of Renewable Energy Credits for Compliance with the Renewables Portfolio Standard (Proposed Decision) pursuant to Rule 14.3(d).

SMUD provides the following comments in order to supplement and reemphasize its concerns set forth in its November 24, 2008 Reply Comments to the October 29, 2008 draft of the Proposed Decision.

SMUD Restates its Original Concern that the Proposed Treatment of Matching Transactions as REC-Only Will Chill the Market for RECs and Put a Cloud over Existing Contracts, Thereby Further Hampering California's Ability to Meet its RPS Targets

SMUD remains concerned that its previous comments regarding the treatment of matching deliveries of bundled energy for greenhouse gas (GhG) accounting purposes was completely ignored in the Proposed Decision. Specifically, SMUD questioned in its November 24, 2008 Reply Comments how the CPUC would address the situation where GhG attributes of matching transactions are attributed to a deliverer's inventory if the transaction is characterized as REC-only. The California Air Resources Board (CARB) has stated on many occasions that it plans to rely on the recommendations of the CPUC and the California Energy Commission (CEC) concerning implementation of AB 32 on the Electricity Sector. Therefore, SMUD believes that the CPUC should express its opinion on the impact of this decision on the carbon accounting of matching and REC-only transactions and how this decision may impact the ability of the 33% Renewables Portfolio Standard (RPS) to achieve the statewide emissions reductions upon which CARB is relying. SMUD believes that the CPUC should find that the carbon content of a matching transaction is zero carbon because that is the impact of bundled energy deliveries.

The proposed treatment of CEC-eligible matching transactions as REC-only (if certain conditions are not met) in the Proposed Decision would create regulatory uncertainty.

This type of regulatory uncertainty will chill the very market for RECs that this Proposed Decision intends to foster, and thereby further hinder achievement of the aggressive RPS goals the State wishes to achieve.

More specifically, as long as these matching transactions are characterized as bundled, then it would be logical for CARB to infer that GhG emissions from matching supplies of the imported energy should not be counted toward the Deliverer's inventory of GhG emissions for purposes of compliance with Assembly Bill (AB) 32 goals.¹ This would be the case because the transaction would be viewed by California regulators of the RPS program as indistinguishable from a simple delivery of renewable energy. However, by characterizing "delivery" of renewable energy as RECs-only, the CPUC creates the issue of who should bear the carbon liability: the retail seller purchasing the RECs but taking advantage of firming and shaping services, or a third party who takes delivery of the null power. SMUD believes that it is fair to grant the renewable energy buyer the full benefit of its bargain by not burdening it with a GhG emission liability on top of the existing RECs premium. Similarly, it is fair to attribute GhG emissions to the off-taker of the null power since that purchaser has bought only commodity energy and no RECs in association with the underlying energy. If instead, the purchaser of the null power in another state obtains the credit for a zero carbon electricity purchase, they will receive more than they bought. This will be to the detriment of the California retail seller and the benefit that retail seller has purchased. SMUD fails to see the rationale for this policy choice other than to favor in-state renewable energy development at the expense of new projects in adjacent states.

SMUD has expressed its concerns on several occasions during this proceeding.² If matching transactions, due to their characterization as REC-only, do not also carry the zero or low carbon attributes of the renewable energy, the market for these products will be minimal and short-lived. RPS-obligated entities will simply not pay a premium for RECs only to have to pay the additional cost of carbon allowances to cover the emissions associated with matching energy. The value of such transactions in a carbon-constrained

¹ This assumes, of course, that a cap-and-trade system along the lines proposed by the Joint Agencies to the California Air Resources Board is adopted by the Board pursuant to plans outlined in the Proposed Scoping Plan, a Framework for Change (Oct. 2008).

² See most recently its November 24, 2008 Reply Comments; *see also* SMUD's September 12, 2008 Comments on the Use of Tradable Renewable Energy Credits for the Renewables Portfolio Standard Program (at 1-3).

environment will be very limited. In a case where retail providers, and potentially other RPS-obligated entities, cannot count the GhG attributes, the ability of California ratepayers to fund cost-effective, out-of-state renewable projects, and solve the transmission problem of getting clean, out-of-state renewable energy to California, would be greatly weakened.

Therefore, SMUD once again requests that the CPUC address the issue of the status of GhG attributes of matching transactions if the transaction is characterized as REC-only.

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Respectfully submitted,

/ s /

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the attached:

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on all known parties to R. 06-02-012 by transmitting an e-mail message with the document attached to each party named in the official service list. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

Executed this 15th day of April 2009, at Sacramento, California.

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Cassandra J. Baines

Service List R. 06-02-012, as of April 15, 2009

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